

WEDNESDAY, FEBRUARY 17, 2010

FIFTY-SEVENTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 8:30 a.m., and was called to order by Mr. Speaker Ramsey.

PRAYER

The proceedings were opened with prayer by Dr. Todd Jones of First Presbyterian Church in Nashville, Tennessee, a guest of Senator Henry.

PLEDGE OF ALLEGIANCE

Senator Henry led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 32

Senators present were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

COMMUNICATION

February 17, 2010

The Honorable Ron Ramsey
Speaker of the Senate
One Legislative Plaza
Nashville, Tennessee 37243

Dear Mr. Speaker:

This is to request your excuse for my absence from Session today, February 17, 2010. I have some personal matters which cannot be delayed.

I appreciate your consideration of this request.

Sincerely,

/s/ Jim Kyle

APPROVED: Lieutenant Governor
Ron Ramsey

STANDING COMMITTEE REPORTS

TRANSPORTATION

MR. SPEAKER: Your Committee on Transportation begs leave to report that we have carefully considered and recommend that Senate Bills Nos. 94, 2575, 2723, 2937 and 3399 be referred to Committee on Finance, Ways and Means.

TRACY, Chairperson
February 16, 2010

The Speaker announced that he had referred Senate Bills Nos. 94, 2575, 2723, 2937 and 3399 to the Committee on Finance, Ways and Means.

JUDICIARY

MR. SPEAKER: Your Committee on Judiciary begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 842, 983, 2584, 2585, 2587 and 3039; also, recommend that Senate Bill No. 2721; and Senate Joint Resolution No. 763 be referred to Committee on Finance, Ways and Means.

BEAVERS, Chairperson
February 16, 2010

The Speaker announced that he had referred Senate Bills Nos. 842, 983, 2584, 2585, 2587 and 3039 to the Committee on Calendar.

The Speaker announced that he had referred Senate Bill No. 2721; and Senate Joint Resolution No. 763 to the Committee on Finance, Ways and Means.

MOTION

Senator Norris moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **Senate Bills Nos. 3921 through 3923** be passed on first consideration, which motion prevailed.

INTRODUCTION OF BILLS

The Speaker announced that the following bills were filed for introduction and passed first consideration:

Senate Bill No. 3921 by Senator Southerland.

Morristown -- As introduced, subject to local approval, increases the hotel/motel tax from 5 percent to 7 percent. Amends Chapter 354 of the Private Acts of 1982.

Senate Bill No. 3922 by Senator Stewart.

Altamont -- As introduced, subject to local approval, amends the charter to reset the month of the election of the mayor and aldermen from May to November; extends the term of the mayor and aldermen in the next election to meet the November 2012 election date. Amends Chapter 664 of the Private Acts of 1917; as amended.

Senate Bill No. 3923 by Senator Black.

Sumner County -- As introduced, subject to local approval, establishes procedure for distribution of proceeds of the hotel/motel tax. Amends Chapter 7 of the Private Acts of 1985.

MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 789 through 798**; and **Senate Resolutions Nos. 193 through 195** be passed on first consideration and lie over, which motion prevailed.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 789 by Senator Bunch.

Memorials, Recognition -- Mayfield Dairy, 100th anniversary.

Senate Joint Resolution No. 790 by Senator Jackson.

Memorials, Retirement -- Tim Aston.

Senate Joint Resolution No. 791 by Senator Johnson.

Memorials, Retirement -- Mary Mills.

Senate Joint Resolution No. 792 by Senators Burchett, Woodson and McNally.

Memorials, Public Service -- Mike and Martha Keel, Mike and Martha Keel Agriculture Grounds Enhancement Endowment.

Senate Joint Resolution No. 793 by Senators McNally, Burchett and Henry.

General Assembly, Statement of Intent or Position -- Urges Congress to propose an amendment concerning the application of certain federal laws to both citizens and senators and representatives and to submit such amendment to the states for ratification.

Senate Joint Resolution No. 794 by Senator Norris.

Naming and Designating -- Medical Education and Research Institute, Simulation Center of Excellence.

Senate Joint Resolution No. 795 by Mr. Speaker Ramsey.

Memorials, Recognition -- Sullivan South High School cheerleaders, Athletic Cheerleading Championship medium varsity division winners.

Senate Joint Resolution No. 796 by Senator Berke.

Memorials, Sports -- Coach Don Grider.

Senate Joint Resolution No. 797 by Mr. Speaker Ramsey and Senator Faulk.

Memorials, Personal Occasion -- Rosella Eugene Dykes Faulk, 80th birthday.

Senate Joint Resolution No. 798 by Senator Gresham.

General Assembly, Statement of Intent or Position -- Expresses support of a world-class public education system for Tennessee and expectations that teachers, parents, and students must all pursue excellence to achieve that goal.

Senate Resolution No. 193 by Senator Ketron.

Memorials, Recognition -- Don Schneider.

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Senate Resolution No. 194 by Senators McNally and Yager.
Memorials, Professional Achievement -- Jill Prudden, 900th victory.

Senate Resolution No. 195 by Senator Norris.
Memorials, Recognition -- Eric and Jo Ann Maupin, Tennessee Young Farmers of the Year.

MOTION

Senator Norris moved, pursuant to Rule 21, **House Joint Resolutions Nos. 804, 805, 808 through 812, 814 through 816, 818, 819 and 821**; and **Senate Joint Resolutions Nos. 787 and 788** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

RESOLUTIONS LYING OVER

The Speaker announced that the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

House Joint Resolution No. 804 -- Memorials, Academic Achievement -- Kaleb Wolfe, John W. Harris Leadership Award.

The Speaker announced that he had referred House Joint Resolution No. 804 to the Committee on Calendar.

House Joint Resolution No. 805 -- Memorials, Personal Achievement -- Anthony Christopher Long, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 805 to the Committee on Calendar.

House Joint Resolution No. 808 -- Memorials, Congratulations -- Theta-Delta Chapter of Phi Alpha Theta National Honor Society, Austin Peay State University, 2009 Best Chapter of the Year Award, Division III.

The Speaker announced that he had referred House Joint Resolution No. 808 to the Committee on Calendar.

House Joint Resolution No. 809 -- Memorials, Recognition -- Dr. Nathan Ford, Cocke County Education Foundation's Celebrate Our Success Award.

The Speaker announced that he had referred House Joint Resolution No. 809 to the Committee on Calendar.

House Joint Resolution No. 810 -- Memorials, Death -- Staff Sergeant Rusty Christian, United States Army.

The Speaker announced that he had referred House Joint Resolution No. 810 to the Committee on Calendar.

House Joint Resolution No. 811 -- Memorials, Personal Achievement -- Jesse Logan Hackworth, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 811 to the Committee on Calendar.

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House Joint Resolution No. 812 -- Memorials, Personal Achievement -- Christopher Malenfant, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 812 to the Committee on Calendar.

House Joint Resolution No. 814 -- Memorials, Sports -- Clint Gobbell, Tennessee Baseball Coaches Association Player of the Year.

The Speaker announced that he had referred House Joint Resolution No. 814 to the Committee on Calendar.

House Joint Resolution No. 815 -- Memorials, Sports -- Rick Haddock, Tennessee Baseball Coaches Association Hall of Fame.

The Speaker announced that he had referred House Joint Resolution No. 815 to the Committee on Calendar.

House Joint Resolution No. 816 -- Memorials, Sports -- Greg Burleson, Summertown High School baseball coach.

The Speaker announced that he had referred House Joint Resolution No. 816 to the Committee on Calendar.

House Joint Resolution No. 818 -- Memorials, Recognition -- Meeting of the Waters, 200th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 818 to the Committee on Calendar.

House Joint Resolution No. 819 -- Memorials, Academic Achievement -- Ryan Steven Redding, Salutatorian, Independence High School.

The Speaker announced that he had referred House Joint Resolution No. 819 to the Committee on Calendar.

House Joint Resolution No. 821 -- Memorials, Personal Achievement -- Johnathan Crockett, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 821 to the Committee on Calendar.

Senate Joint Resolution No. 787 -- Naming and Designating -- "National Adoption Day", November 20, 2010.

The Speaker announced that he had referred Senate Joint Resolution No. 787 to the Committee on State and Local Government.

Senate Joint Resolution No. 788 -- Memorials, Recognition -- Katelin R. Kennedy, Miss Tennessee High School 2010.

The Speaker announced that he had referred Senate Joint Resolution No. 788 to the Committee on Calendar.

CONSENT CALENDAR NO. 1

Senate Joint Resolution No. 766 -- Memorials, Heroism -- 269th Military Police Company, Tennessee Army National Guard.

Senate Joint Resolution No. 769 -- Memorials, Death -- Edwin Eblen Arnold.

Senate Joint Resolution No. 770 -- Memorials, Death -- Henry Ford Clayton.

Senate Joint Resolution No. 771 -- Memorials, Recognition -- Fentress County Agricultural Fair, 87th Annual Convention of the Tennessee Association of Fairs.

Senate Joint Resolution No. 772 -- Memorials, Death -- Milton Shamitz.

Senate Joint Resolution No. 773 -- Memorials, Heroism -- Holocaust Survivors and Liberators residing in Tennessee.

Senate Joint Resolution No. 774 -- Memorials, Recognition -- Leadership Chattanooga.

Senate Joint Resolution No. 775 -- Memorials, Death -- Staff Sergeant Rusty Christian, United States Army.

Senate Joint Resolution No. 776 -- Memorials, Personal Achievement -- Kermisha Tate, Pearl of Promise Award.

Senate Joint Resolution No. 777 -- Memorials, Recognition -- John Shulman, Distinguished Citizen Award.

Senate Joint Resolution No. 779 -- Memorials, Public Service -- Grant Law, Kiwanis Club 2010 Distinguished Service Award.

Senate Joint Resolution No. 780 -- Memorials, Public Service -- Congressman Bart Gordon.

Senate Joint Resolution No. 781 -- Memorials, Retirement -- Dennis Huffer.

Senate Joint Resolution No. 782 -- Memorials, Recognition -- Hedy Weinberg.

Senate Resolution No. 189 -- Memorials, Personal Achievement -- Zachary Ramsey, Eagle Scout.

Senate Resolution No. 190 -- Memorials, Professional Achievement -- Mike Hammond, Country Radio Hall of Fame.

Senate Resolution No. 191 -- Memorials, Recognition -- Wayne Surber.

Senate Resolution No. 192 -- Memorials, Recognition -- Bill Brooks.

Senator Faulk moved that all Senate Joint Resolutions and Senate Resolutions be adopted, which motion prevailed by the following vote:

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Ayes 26
Noes 0
Present, not voting . . . 4

Senators voting aye were: Barnes, Berke, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Stewart, Tate, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senators present and not voting were: Beavers, Black, Southerland and Tracy--4.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

Objections having been raised, the following bills were placed at the heel of the calendar for Thursday, February 18, 2010, pursuant to Rule 38: **Senate Bills Nos. 2496, 2617, 2731 and 3034.**

Senate Bill No. 2446 -- Sunset Laws -- As introduced, extends the board of examiners in psychology, June 30, 2013. Amends TCA Title 4, Chapter 29, Part 2 and Title 63, Chapter 11, Part 1.

Senate Bill No. 2448 -- Sunset Laws -- As introduced, extends the board of medical examiners' committee on physician assistants, June 30, 2013. Amends TCA Title 4, Chapter 29, Part 2 and Title 63, Chapter 19, Part 1.

Senate Bill No. 2450 -- Sunset Laws -- As introduced, extends the board of optometry, June 30, 2013. Amends TCA Title 4, Chapter 29, Part 2 and Title 63, Chapter 8, Part 1.

Senate Bill No. 2452 -- Sunset Laws -- As introduced, extends board of podiatric medical examiners, June 30, 2013. Amends TCA Title 4, Chapter 29 and Title 63, Chapter 3.

Senate Bill No. 2454 -- Sunset Laws -- As introduced, extends the board of veterinary medical examiners, June 30, 2013. Amends TCA Title 4, Chapter 29 and Title 63, Chapter 12.

Senate Bill No. 2836 -- Insurance, Health, Accident -- As introduced, decreases from five to three years the length of time a small employer must purchase coverage through a health group cooperative. Amends TCA Title 56, Chapter 7, Part 22.

Senate Bill No. 2933 -- Municipal Government -- As introduced, grants municipalities exclusive right to use their names and symbols. Amends TCA Title 6, Chapter 54, Part 1.

Senate Bill No. 2967 -- Appeal and Review -- As introduced, directs that any appeal of a final judgment of a writ of error coram nobis is heard and determined by the court of criminal appeals instead of the supreme court. Amends TCA Section 40-26-105(d).

Senate Bill No. 3057 -- Traffic Safety -- As introduced, authorizes bicycles to proceed through intersections with inoperative vehicle detection devices due to the weight of the bicycles. Amends TCA Section 55-8-110.

Senate Bill No. 3435 -- Highway Patrol -- As introduced, authorizes a highway patrol member that retires involuntarily after 20 years of honorable service to keep his badge and weapon and to receive a retired commissioned card. Amends TCA Section 4-7-110.

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Senate Resolution No. 178 -- Court Rules -- Approves amendments and revisions to the Tennessee Rules of Appellate Procedure.

Senate Resolution No. 179 -- Court Rules -- Approves amendments and revisions to the Tennessee Rules of Criminal Procedure.

Senate Resolution No. 180 -- Court Rules -- Approves amendments and revisions to the Tennessee Rules of Civil Procedure.

Senate Resolution No. 181 -- Court Rules -- Approves amendments and revisions to the Tennessee Rules of Evidence.

Senator Faulk moved that all Senate Resolutions be adopted; and all Senate Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 2380 -- Bledsoe County -- As introduced, subject to local approval, establishes Healthcare Facilities Board as successor entity to Board of Hospital Directors. Amends Chapter 94 of the Private Acts of 1967; as amended.

On motion, Senate Bill No. 2380 was made to conform with **House Bill No. 2414**.

On motion, House Bill No. 2414, on same subject, was substituted for Senate Bill No. 2380.

Senator Faulk moved that all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

CALENDAR

Senate Bill No. 2411 -- Firefighters -- As introduced, removes the exemption for Hawkins County from the minimum training requirements for firefighters. Amends TCA Section 4-24-112.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 4-24-112(n), is further amended by deleting the language "34,800" and "34,900" in its entirety.

SECTION _____. Tennessee Code Annotated, Section 4-24-112(g), is amended by deleting the language "39,800" and "39,875" in its entirety.

SECTION _____. Tennessee Code Annotated, Section 4-24-112(g), is further amended by deleting the language "107,100" and "107,200" in its entirety.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2411**, as amended, passed its third and final consideration by the following vote:

| | |
|---------------------------|----|
| Ayes | 29 |
| Noes | 0 |
| Present, not voting . . . | 1 |

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

Senator present and not voting was: Haynes--1.

A motion to reconsider was tabled.

Senate Bill No. 2570 -- Insurance, Motor Vehicles -- As introduced, authorizes accident prevention courses that qualify for premium rate reductions for older drivers to be offered online, subject to the approval of the Commissioner of Commerce and Insurance. Amends TCA Section 56-7-1107.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following language as a new Section 3 of the bill and redesignating existing sections accordingly:

SECTION 3. Tennessee Code Annotated, Section 56-7-1107, is further amended by adding the following language between the words "accident prevention course" and the period "." at the conclusion of the second sentence of subsection (f):

and certification of an online motor vehicle accident prevention course

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On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2570**, as amended, passed its third and final consideration by the following vote:

| | |
|------------|----|
| Ayes | 31 |
| Noes | 0 |

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 2898 -- Arts -- As introduced, adds member to the Douglas Henry State Museum Commission. Amends TCA Title 4, Chapter 20, Part 3.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-20-301, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) There is created and established a state commission to be known as the Douglas Henry State Museum Commission, referred to as "the commission" in this part, to consist of thirteen (13) voting members.

SECTION 2. Tennessee Code Annotated, Section 4-20-301, is further amended by adding the following language as new subsection (e) and by redesignating the existing subsection (e) and remaining subsections accordingly:

(e) One (1) member of the commission shall be the chair of the Senate Finance, Ways and Means Committee or the chair's designee. One (1) member of the commission shall be the chair of the House of Representatives Finance, Ways and Means Committee or the chair's designee.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2898**, as amended, passed its third and final consideration by the following vote:

| | |
|---------------------------|----|
| Ayes | 30 |
| Noes | 0 |
| Present, not voting . . . | 1 |

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Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

Senator present and not voting was: Henry--1.

A motion to reconsider was tabled.

Senate Bill No. 3045 -- Wills -- As introduced, mandates that wills or trusts of decedents, who die after December 31, 2009, but before January 1, 2011, that reference certain exemptions shall be construed as referring to the federal estate and generation-skipping transfer tax laws. Amends TCA Title 32 and Title 35.

Senator Overbey declared Rule 13 on **Senate Bill No. 3045**.

Senator Faulk declared Rule 13 on **Senate Bill No. 3045**.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting language and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 32, Chapter 3, is amended by adding the following language as a new section:

§ 32-3-113.

(a)(1) A will or trust of a decedent, who dies after December 31, 2009, but before January 1, 2011, that contains a formula referring to the "unified credit", "estate tax exemption", "applicable exemption amount", "applicable credit amount", "applicable exclusion amount", "generation-skipping transfer tax exemption", "GST exemption", "marital deduction", "maximum marital deduction", or "unlimited marital deduction", or that measures a share of an estate or trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer taxes, or that is otherwise based on a similar provision of federal estate tax or generation-skipping transfer tax law, shall be deemed to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009.

(2) Subdivision (a)(1) shall not apply with respect to:

(A) A will or trust that is executed or amended after December 31, 2009, or manifests an intent that a contrary rule shall apply if the decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax;

(B) A will, if the personal representative files with the clerk of the court in which the will is being administered, within nine (9) months of the decedent's death, a written election to opt out of the application of the general rule of construction set forth in this subsection (a), together with the written consent to such election of each beneficiary who would have received a different amount of property under the will absent this election; or

(C) A trust, if the personal representative, within nine (9) months of the decedent's death, elects to opt out of the application of the general rule of construction set forth in this subsection (a) by delivery of written notice to the qualified beneficiaries of the trust, provided the personal representative first obtains written consent to such election from each qualified beneficiary of the trust who would have received a different amount of property under the trust absent such election.

(3) If a beneficiary from whom the personal representative of a will is required to obtain approval pursuant to subdivision (a)(2)(B) or (a)(2)(C) is a trust, then the approval shall be obtained from each qualified beneficiary of such trust.

(4) For purpose of this subsection (a), the term "qualified beneficiary" shall have the same meaning as defined in § 35-15-103.

(5) For the purpose of obtaining a beneficiary's or qualified beneficiary's consent, the provisions of § 35-15-301 through § 35-15-305 shall apply.

(6) If there is no personal representative, then the trustee of the trust may make the election for the trust in the manner permitted for a personal representative under this subsection (a).

(7) An election by the personal representative or trustee under this subsection (a) shall relate back to the date of the decedent's death for all purposes, including the application of Title 67, Chapter 8.

(8) The reference to January 1, 2011, in this subsection (a) shall, if the federal estate and generation-skipping transfer tax becomes effective before that date, refer instead to the first date on which such tax shall become legally effective.

(b) The personal representative, or any affected beneficiary under the will or other instrument, may bring a proceeding to determine whether the decedent intended that the references under subsection (a) be construed with respect to the law as it existed after December 31, 2009. Such a proceeding must be commenced within twelve (12) months following the death of the testator or grantor, and not thereafter.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3045**, as amended, passed its third and final consideration by the following vote:

| | |
|------------|----|
| Ayes | 32 |
| Noes | 0 |

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

Senate Bill No. 3498 -- Health Care -- As introduced, enacts "Tennessee Health Freedom Act". Amends TCA Title 8; Title 56; Title 63; Title 68 and Title 71.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following as a new section:

§ 56-7-1015.

(a) This section shall be known and may be cited as the "Tennessee Health Freedom Act".

(b) As used in this section:

(1) "Healthcare services" means any service, treatment, or provision of product for the care of physical or mental disease, illness, injury, defect or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within this state;

(2) "Mode of securing" means to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means authorized by the State of Tennessee, or to apply for or accept employer or government sponsored healthcare benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same;

(3) "Penalty" means any civil or criminal fine, tax, salary or wage withholding, surcharge, fee or any other imposed consequence, established by law or rule of the federal government of the United States of America or its subdivision or agency, that is used to punish or discourage the exercise of rights protected under this chapter.

(c)(1) The power to require or regulate a person's choice in the mode of securing healthcare services, or to impose a penalty related thereto, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the Ninth Amendment, and to the several states pursuant to the Tenth Amendment. This state hereby exercises its sovereign power to declare the public policy of this state regarding the right of all persons residing in this state in choosing the mode of securing healthcare services and to be free from the imposition of penalties or the threat of penalties by the federal government of the United States of America when choosing such.

(2) It is declared that the public policy of this state, consistent with our constitutionally recognized and inalienable rights of liberty, is that every person within this state is and shall be free to choose or decline to choose any mode of securing healthcare services without penalty or threat of penalty by the federal government of the United States of America.

(3) The policy stated in this section shall not be applied to impair any right of contract related to the provision of healthcare services to any person or group.

(d)(1) No public official, employee, or agent of this state or any of its political subdivisions shall act to impose, collect, enforce, or effectuate any penalty in this state that violates the public policy set forth in this section.

(2) The attorney general shall take such action as is provided in Section 2 of this act, in the defense or prosecution of rights protected under this section.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 6, Part 1, is amended by adding the following as a new section:

§ 8-6-113.

Except as otherwise provided in this chapter, it is the duty of the attorney general and reporter to seek injunctive and any other appropriate relief as expeditiously as possible to preserve the rights and property of the residents of this state, and to defend as necessary this state, its officials, employees and agents in the event that any law or regulation violating the public policy set forth in the Tennessee Health Freedom Act, compiled in Section 1 of this act, is enacted by any government, subdivision or agency thereof.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

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Thereupon, **Senate Bill No. 3498**, as amended, passed its third and final consideration by the following vote:

| | |
|---------------------------|----|
| Ayes | 26 |
| Noes | 1 |
| Present, not voting . . . | 5 |

Senators voting aye were: Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Stewart, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senator voting no was: Berke--1.

Senators present and not voting were: Barnes, Harper, Haynes, Marrero and Tate--5.

A motion to reconsider was tabled.

Senate Bill No. 3713 -- Education -- As introduced, extends pilot program for class size limits in career and technical education course in Davidson County for one year, through July 1, 2010; extends committee to study pilot program to January 1, 2011. Amends TCA Title 49, Chapter 1, Part 1.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-1-104(g), is amended by deleting the language "two-year pilot" wherever it appears in subdivisions (1) and (2) and by substituting instead the language "four-year pilot".

SECTION 2. Tennessee Code Annotated, Section 49-1-104(g)(3), is amended by deleting the language "January 1, 2010" and by substituting instead the language "January 1, 2012".

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3713**, as amended, passed its third and final consideration by the following vote:

| | |
|----------------|----|
| Ayes | 32 |
| Noes | 0 |

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

Senate Bill No. 3295 -- Water -- As introduced, changes word "tax" to "fee" in statement appearing on bill for storm water fees. Amends TCA Section 68-221-1112.

Senate Bill No. 3295 passed its third and final consideration by the following vote:

| | |
|------------|----|
| Ayes | 31 |
| Noes | 0 |

Senators voting aye were: Barnes, Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

MESSAGE CALENDAR

REPORT OF SELECT COMMITTEE CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 2376/SENATE BILL NO. 2334

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 2376 (Senate Bill No. 2334) has met and recommends that the following amendment be deleted:

Senate Amendment No. 2

The Committee further recommends that the following amendment be adopted:

House Amendment No. 1

/s/ Senator Doug Jackson
/s/ Senator Dewayne Bunch
/s/ Senator Mae Beavers

/s/ Representative Eddie Bass
/s/ Representative Joe Pitts
/s/ Representative Debra Maggart

Senator Jackson moved that the Conference Committee Report on **House Bill No. 2376/Senate Bill No. 2334** be adopted and made the action of the Senate, which motion prevailed by the following vote:

| | |
|------------|----|
| Ayes | 32 |
| Noes | 0 |

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

WEDNESDAY, FEBRUARY 17, 2010 -- 57TH LEGISLATIVE DAY

MOTION

Senator Norris moved that the Proposed Schedule for the week of February 22, 2010, be adopted and made the action of the Senate, which motion prevailed.

**TENNESSEE STATE SENATE
106th GENERAL ASSEMBLY**

**PROPOSED SCHEDULE
FOR THE WEEK OF FEBRUARY 22, 2010**

MONDAY – February 22

5:00 p.m. Session – Senate Chamber

TUESDAY – February 23

| | |
|-------------------------|---|
| 8:30 a.m. – 10:30 a.m. | Finance, Ways & Means Committee |
| 10:30 a.m. – 11:30 a.m. | Environment, Conservation & Tourism Committee |
| 11:30 a.m. – 12:30 p.m. | Transportation Committee |
| 12:30 p.m. – 1:00 p.m. | Lunch |
| 1:00 p.m. – 3:00 p.m. | Commerce, Labor & Agriculture Committee |
| 3:00 p.m. – 5:00 p.m. | Judiciary Committee |

WEDNESDAY – February 24

| | |
|-------------------------|---|
| 8:30 a.m. | Session – Senate Chamber |
| 10:00 a.m. – 12:00 noon | State & Local Government Committee |
| 12:00 noon – 1:00 p.m. | Lunch |
| 1:00 p.m. – 2:30 p.m. | Education Committee |
| 2:30 p.m. – 3:30 p.m. | Government Operations Committee |
| 3:30 p.m. – 5:00 p.m. | General Welfare, Health & Human Resources Committee |

THURSDAY – February 25

9:00 a.m. Session – Senate Chamber

NOTE: Special Joint Study Committee concerning TWRA (HB963), Thursday, February 25, 2010, at 11:00 a.m., Room 30 LP.

Council on Pensions and Insurance, Monday, February 22, 2010, at 1:00 p.m.

Joint Government Operations Rules Review, Monday, February 22, 2010, at 1:30 p.m., Room 30 LP.

TennCare Oversight Committee, Monday, February 22, 2010, at 1:30 p.m., Room 16 LP.

RECALL OF BILL

On motion of Senator Ford, **Senate Joint Resolution No. 699** was recalled from the Committee on Calendar.

WITHDRAWAL OF BILL

On motion of Senator Ford, Senate Joint Resolution No. 699 was withdrawn from the Senate.

MOTION

On motion of Senators Herron, Berke and Tracy, their names were added as sponsors of **Senate Joint Resolution No. 766**.

On motion of Senator Berke, his name was added as sponsor of **Senate Joint Resolution No. 772**.

On motion of Senators Barnes, Beavers, Black, Bunch, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Joint Resolution No. 773**.

On motion of Senators Barnes, Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Joint Resolution No. 774**.

On motion of Senators Jackson, Burks and Ford, their names were added as sponsors of **Senate Joint Resolution No. 780**.

On motion of Senator Finney, his name was removed as sponsor of **Senate Joint Resolution No. 782**.

On motion of Senators Crowe, Burchett, Woodson and McNally, their names were added as sponsors of **Senate Resolution No. 190**.

On motion of Senator Ford, her name was added as sponsor of **Senate Bills Nos. 2448, 2450 and 3295**.

On motion of Senators Marrero, Haynes, Harper and Barnes, their names were added as sponsors of **Senate Bill No. 2898**.

On motion of Senator Crowe, his name was added as sponsor of **Senate Bills Nos. 2933, 3057, 3435 and 3630; Senate Joint Resolutions Nos. 775 and 777; and Senate Resolutions Nos. 189 and 191**.

On motion of Senators Crowe, Norris, Johnson, Watson, Faulk and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Bill No. 3498**.

On motion of Senator Kelsey, his name was added as sponsor of **Senate Bills Nos. 673 and 3049**.

On motion of Senator Herron, his name was added as sponsor of **Senate Bill No. 508; and Senate Joint Resolution No. 764**.

WEDNESDAY, FEBRUARY 17, 2010 -- 57TH LEGISLATIVE DAY

On motion of Senator Henry, his name was added as sponsor of **Senate Bills Nos. 2562 and 2649**.

On motion of Senator Tracy, his name was added as sponsor of **Senate Bill No. 3544**.

On motion of Senator Norris, his name was removed as sponsor of **Senate Bill No. 2528**.

On motion of Senator Burks, her name was removed as sponsor of **Senate Bill No. 3847**.

On motion of Senator Burks, her name was added as sponsor of **House Joint Resolution No. 776**.

ENGROSSED BILLS

February 17, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 2411, 2446, 2448, 2450, 2452, 2454, 2570, 2836, 2898, 2933, 2967, 3045, 3057, 3295, 3435, 3498 and 3713; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

February 17, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 766, 769, 770, 771, 772, 773, 774, 775, 776, 777, 779, 780, 781 and 782; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENROLLED BILLS

February 17, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 178, 179, 180, 181, 189, 190, 191 and 192; and find same correctly enrolled and ready for the signature of the Speaker.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

SIGNED

February 17, 2010

The Speaker announced that he had signed the following: Senate Resolutions Nos. 178, 179, 180, 181, 189, 190, 191 and 192.

WEDNESDAY, FEBRUARY 17, 2010 -- 57TH LEGISLATIVE DAY

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR # 1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following resolution on the calendar for Thursday, February 18, 2010: Senate Joint Resolution No. 764.

This the 16th day of February, 2010.
MIKE FAULK, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR # 2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, February 18, 2010: Senate Bills Nos. 2720, 3046, 3553, 3578, 3814 and 3870.

This the 16th day of February, 2010.
MIKE FAULK, Chairperson.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, February 18, 2010: Senate Bills Nos. 2390, 2428, 2431, 2433, 2434, 2436, 2501, 2949, 3144, 3359, 3407, 3522, 3581 and 3815; and Senate Joint Resolution No. 708.

This the 16th day of February, 2010.
MIKE FAULK, Chairperson.

ADJOURNMENT

Senator Norris moved the Senate adjourn until 9:00 a.m., Thursday, February 18, 2010, which motion prevailed.